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Attorneys for the United States

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
DAVID LOUIS BEHAR, )  
LINDSAY ROBIN HOGUE, )  
TARA BERGSTRAND, and )  
JOHN ROGER LAGACE )  
 )  
 )  
Defendants. )

No. CR 08-00088 JW

STIPULATION AND ORDER TO  
PRODUCE REPRESENTATIVE SAMPLE  
OF NARCOTICS FOR TESTING BY  
DEFENSE EXPERT

IT IS HEREBY STIPULATED and requested by the parties that the court sign the  
attached proposed order regarding the retesting of representative samples of alleged Lysergic  
acid diethylamide (LSD) by the defense expert in this case.

It is so stipulated.

Dated: 3/4/08

/s/ \_\_\_\_\_  
JEFFREY B. SCHENK  
Assistant U.S. Attorney

STIPULATION AND ORDER TO PRODUCE REPRESENTATIVE SAMPLE OF NARCOTICS FOR TESTING BY DEFENSE  
EXPERT  
CR 08-00088 JW

1 It is so stipulated:

2 Dated: \_\_3/4/08\_\_

\_\_\_\_\_/s/\_\_\_\_\_  
PETER LEEMING  
Attorney for Mr. Behar

4 It is so stipulated:

5 Dated: \_\_3/4/08\_\_

\_\_\_\_\_/s/\_\_\_\_\_  
GEOFFREY BRAUN  
Attorney for Ms. Hogue

7 It is so stipulated:

8 Dated: \_\_3/4/08\_\_

\_\_\_\_\_/s/\_\_\_\_\_  
MANUEL ARAUJO  
Attorney for Ms. Bergstrand

10 It is so stipulated:

11 Dated: \_\_3/4/08\_\_

\_\_\_\_\_/s/\_\_\_\_\_  
JERRY FONG  
Attorney for Mr. Lagace

14 **ORDER**

15 UPON THE DEFENDANT'S REQUEST for an order which requires the Government to  
16 produce the following exhibits, to wit:

17 <u>Exhibit Number</u>	<u>DEA Laboratory Number</u>
18 1	7144015
19 6	7144020

20 as reported in DEA FORM-7, REPORT OF DRUG PROPERTY COLLECTED, PURCHASED  
21 OR SEIZED, having the Case File No. RC 08-0009, and dated November 30, 2007, for  
22 qualitative analysis and identification of the controlled substance contained therein by a defense  
23 expert,

24 IT IS HEREBY ORDERED and DECREED that Drug Enforcement Administration (DEA)  
25 Special Agent or Task Force Officer shall deliver the drug exhibit(s) identified above to Judith  
26 Stewart, DEA License No. RF1093778, of Forensic Analytical Sciences, Inc., located at 3777  
27 Depot Road, Suite 403, Hayward, CA 94545, telephone no. 510-266-8100. The DEA Western  
28 Laboratory shall arrange the delivery of said representative sample(s) on or before March 7,

2008 to the DEA Special Agent or Task Force Officer for delivery to Judith Stewart of the Forensic Analytical Sciences, Inc. Laboratory; and

IT IS FURTHER ORDERED, that upon said delivery of the exhibit(s) identified above to the defense expert, that a DEA Special Agent or Task Force Officer shall be present when the defense expert inspects, weighs and removes a representative sample of the exhibit(s) identified above for analysis. The representative sample shall be in an amount not to exceed 500 mgs from each of the above-described exhibit(s). The weight of each representative sample taken shall be documented and signed by the defense expert and provided to the DEA Special Agent or Task Force Officer in attendance. Upon the completion of the sample removal and weighing, the DEA Agent and Task Force Officer in attendance shall, forthwith, return the remaining above-listed exhibit(s) to the DEA Western Laboratory; and

IT IS FURTHER ORDERED, that the defense expert shall conduct the qualitative analyses and identification ordered herein, and shall provide the Government with an *Unsworn Declaration Under Penalty of Perjury*, under 28 U.S.C. § 1746, executed by the individual who conducted the analyses, or the head of the facility where the analyses occurred, which states the quantity of each exhibit consumed during testing, and either the weight of each exhibit returned to the Government, or a statement that all of the sample was consumed during testing; and

IT IS FURTHER ORDERED, that all remaining material of the sample(s), after testing, is to be returned by Judith Stewart to the DEA Western Laboratory via registered U.S. Mail, return receipt requested, or approved commercial carrier, with five (5) business days after the completion of analyses; and

IT IS FURTHER ORDERED, in accordance with FED. R. CRIM. P. 16(b)(1)(B), that the defendant shall provide the Government with a copy of the results or report of the physical examinations and scientific tests or experiments which results from the analyses conducted under this Order; and

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1 IT IS FURTHER ORDERED, that Judith Stewart is to safeguard the representative sample(s)  
2 received, preserving the chain of custody in a manner to faithfully protect the integrity of each  
3 exhibit received.

4 SO ORDERED this \_\_\_\_\_ day of March 2008.

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6 BY THE COURT:  
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11 UNITED STATES DISTRICT JUDGE  
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